IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2344 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HIMANSHU S MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR SHALIN MEHTA for MR GIRISH PATEL for Petitioner

MR HH PATEL for Respondent No. 1

MR DEEPAK V CHAUHAN for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/01/2001

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner, an employee of Gujarat Dairy

Development Corporation, Gandhinagar through this petition under Article 226 of the Constitution of India praying for a declaration that the action of the respondent-Corporation in not granting him scale of Rs.1400-2600 and decided to redesignating the post of Draughtsman to Tracer as arbitrary, violative of Article 14 of the Constitution of India and illegal null and void.

The petitioner has come up with the case that he possessing the certificate course in Draughtsman (Civil) from ITI, he joined the Corporation services as Draftsman (Civil) in the pay scale of Rs.350-560 on 15.2.1984. It is averred that the petitioner when he joined services as Draughtsman (Civil)) did not know the prevailing scale of pay of the Draughtsman (Civil) in the Government Services which at the relevant time was of Rs.425-800. This pay scales were revised from time to time and the petitioner is claiming parity in the pay scale on the ground of equal pay for equal work. It is not in dispute that in the Government of Gujarat and more particularly, in the Civil Engineering Department thereof the pay scale of the post of Draughtsman (Civil) is much more higher than the pay scale of the post of Draughtsman (Civil) in the Corporation. However, merely on the nomenclature or even if holders of the posts in the Corporation or the Government of Gujarat are doing same work still this claim made by the petitioner may not be accepted. It is no more res integra and even if any reference is necessary the reference may have to the decision of the apex court in the case of Shyam Babu Verma Vs. Union of India, 1994(2) SCC 521 on the the basis of the different qualifications for a post in the cadre two pay scales can be legitimately prescribed by the State or the Corporation etc.

#. The learned counsel for the petitioner place for the perusal of the court the relevant portion of the Recruitment Rules for the post of Draughtsman (Civil) in the Corporation in its Civil Engineering Department which reads as under :-

Sr. No. : 47

Post : Draughtsman (Civil)

Pay Scale : 350-560

Edn. qualification : Diploma in Civil Engineering OR Certificate course in

Draughtsmanship from a recognised institute.

Job Experience
(For Direct Recruitment): 2 Years experience for diploma holders OR 5 Yrs. experience for certificate holders as a design Draughtsman.

Job Experience
(For Internal Promotion): --

Age Limit : Not exceeding 30 years

The respondent No.2 in its affidavit has given out the minimum qualification which is prescribed for the post of Draughtsman (Civil) in the Government which reads as under :-

"(b) possess a degree in Architecture or Civil or Mechanical or Electrical Engineering of a University or Institute recognised by the Government of Gujarat or a Diploma Draftsmanship in Civil or Mechanical Engineering awarded by the National council for vocational Trades or Diploma in Craftsmanship in the trade of draftsman Civil or Mechanical awarded previously by the Director General of Resettlement and Employment".

From the comparison of the qualifications prescribed for the appointment of the post of Draughtsman (Civil) in the Corporation and in the Agricultural and Forest Department, State of Gujarat and other departments it is clear that much higher qualifications are necessary to be possessed by the candidate for the appointment as Draughtsman (Civil) in the Government services than what it has been to be for the appointment on this post in the Corporation. For Draughtsman (Civil) in the Government services the candidate has to possess a degree in the Architecture or Civil or Mechanical or Electrical Engineering of a university or institution recognised by the Government of Gujarat or Diploma in Draftsmanship in Civil or Mechanical Engineering awarded by National Council for Vocational Trades or Diploma in Craftsmanship in the trade of Draughtsman Civil or Mechanical awarded previously by the Director General of Resettlement and Employment.

#. In the case of the employees of the Corporation Diploma in Civil Engineering or certificate course in draftsman from a recognised institution with some experience is only required. The learned counsel for the petitioner though made a feeble attempt to show that diploma is equivalent to the certificate course but it is not correct, which is clear from a mere glance of the qualifications prescribed for the appointment on the post of Draughtsman (Civil) in the Corporation. As per the recruitment rules of this post Diploma holder has to possess 2 years experience whereas certificate course holder has to possess 5 years experience for eligibility. So, this difference of the period of experience to be possessed for the eligibility for appointment on the post of Draughtsman (Civil) in the Corporation itself makes it clear that Diploma cannot be equated nor it is taken to be equivalent to the certificate course. This matter is squarely covered by the decision of the apex court in the case of Shyam Babu Verma Vs. Union of India (Supra). In these facts and circumstances if the Corporation decides to designate the post of Draughtsman (Civil) as Tracer to which no exception can be made. That decision rightly has been thought of so that in future no further dispute can be raised merely because of a common nomenclature of the posts in the Corporation and in the State Government.

In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged. Interim relief, if any, granted earlier stands vacated. No order as to costs.

(S.K.Keshote, J.)

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